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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,221	03/02/2000	Rick Fletcher	09764-74.10US	4794

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EXAMINER
ENGLAND, DAVID E

ART UNIT	PAPER NUMBER
2143	9

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/518,221	FLETCHER ET AL.	
	Examiner	Art Unit	
	David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 August 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 March 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

DETAILED ACTION

1. Claims 16 – 20 are presented for examination.

2. Applicant's arguments with respect to claims 16 - 20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The term "metrics" is not described in the specification in a way to have one of ordinary skill in the art to interpret the term in a way to make the claim allowable.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raab et al. U.S. Patent No. 6047321 (hereinafter Raab) in view of Desai et al. (5781703) (hereinafter Desai).

5. Referencing claim 16, Raab teaches a method for distributed remote network monitor (dRMON) in a LAN comprising:

6. agents implementing prior art RMON functional groups but only capturing and analyzing packets that their native ES sends or receives, (e.g. col. 4, lines 5 – 57);

7. on a regular, periodic basis having the dRMON agents forward statistics and/or captured packets to a dRMON proxy or collector, existing somewhere on the WAN/LAN, (e.g. col. 4, lines 5 – 57); and

8. combining received agent data thereby creating at the proxy the view that a prior, art stand-alone RMON probe would have if all the ES were on the same LAN segment with it, (e.g. col. 4, lines 5 – 57), but does not specifically teach deploying dRMON agents within ESs. Desai teaches deploying dRMON agents within ESs, (e.g. col. 2, line 45 – col. 3, line 36 & col. 6, line 62 – col. 7, line 26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Desai with Raab because it would be more cost effective and could have less areas for errors if the agents resided in the end system that it was collecting information from as opposed to having two devices. This would also result in only having to utilize software for the agent and not hardware and software on a separate device.

9. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab (6047321) in view of Desai (5781703) in further view of Dobbins et al. (5790546) (hereinafter Dobbins).

10. As per claim 17 an understood by the Examiner, Raab and Desai do not specifically teach said proxy can mimic the SNMP responses of a prior art non-distributed RMON probe so that existing network application management software can interact with the proxy as though the proxy were a prior art probe. Dobbins teaches said proxy can mimic the SNMP responses of a prior art non-distributed RMON probe so that existing network application management software can interact with the proxy as though the proxy were a prior art probe, (e.g. col. 16, lines 4 – 26). It would have been obvious to one skilled in the art at the time the invention was made to combine Dobbins with the combine system of Raab and Desai because it would be more efficient for a system to utilize the same functions that a probe has and apply them to a proxy so have all functions of both devices in one device that could save time on transmission time and prevent errors in transmissions to and from the proxy and probe. Furthermore, Applicant discloses that this has been used in the prior art as stated in the claim itself.

11. As per claim 18, as understood by the Examiner, Raab and Desai teach all that is disclosed above but does not specifically teach in an enhanced dRMON Managers a user is provided with the ability to combine ports and hosts in order to create Virtual LAN (VLAN) definitions to cause the monitoring function to behave as though all selected hosts were on the same LAN segment being served by the same RMON probe with the dRMON collector in this

embodiment creating and maintaining several such views with each appearing as one interface to conventional RMON Management applications. Dobbins teaches in an enhanced dRMON Managers a user is provided with the ability to combine ports and hosts in order to create Virtual LAN (VLAN) definitions to cause the monitoring function to behave as though all selected hosts were on the same LAN segment being served by the same RMON probe with the dRMON collector in this embodiment creating and maintaining several such views with each appearing as one interface to conventional RMON Management applications, (e.g. col. 9, line 13 – col. 10, line 5 & col. 17, lines 28 – 67). It would have been obvious to one skilled in the art at the time the invention was made to combine Dobbins with the combine system of Raab and Desai because it would be more convenient for a system to utilize the functions of VLAN's so a user in a specific user group does not have to be connected to a same segment as the group to which it belongs to. Therefore allowing a new user and existing users the convenient of being stationed anywhere in the system and allowing the system to perceive as though the user was on the same segment.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raab (6047321) in view of Desai (5781703) in further view of Umetsu (5751963).

13. As per claim 19, Raab and Desai do not specifically teach said agents perform continual response time monitoring and forward the results to the Proxy. Umetsu teaches said agents perform continual response time monitoring and forward the results to the Proxy, (e.g. col. 4, line 50 – col. 5, line 14). It would have been obvious to one skilled in the art at the time the invention

was made to combine Umetsu with the combine system of Raab and Desai because it would be more efficient for a system to have continual updates on network activity that could aid in the efficiency of network data transferring in network peek times.

14. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raab (6047321) in view of Desai (5781703) in further view of Nugent (6076131) in further view of Engel et al. (6115393) (hereinafter Engel).

15. As per claim 20, as understood by the Examiner, Raab and Desai do not specifically teach said agent software utilizes native OS APIs to gather information about the ES that could not be via packet capture and analysis, such as:

16. (1) Network protocol stack configurations and NIC configurations including problematic situations;

17. (2) Application information ranging from what protocols an application is bound to, to its manufacturer, version, file date and time, DLLs used and their versions, etc.;

18. (3) System information such as memory, CPU, disk space, current resource utilizations, etc.; and

19. (4) System performance metrics. Nugent teaches said agent software utilizes native OS APIs to gather information about the ES that could not be via packet capture and analysis, such as:

20. (1) Network protocol stack configurations and NIC configurations including problematic situations, (e.g. col. 9, lines 30 – 61). It would have been obvious to one skilled in the art at the

time the invention was made to combine Nugent with the combine system of Raab and Desai because it would be more efficient for a system to analyze information that could have errors in the system so to lower the probability of a system crashing or transmitting faulty information across the network. Engel teaches

21. (2) Application information ranging from what protocols an application is bound to, to its manufacturer, version, file date and time, DLLs used and their versions, etc., (e.g. col. 14, lines 26 – 65);

22. (3) System information such as memory, CPU, disk space, current resource utilizations, etc. , (e.g. col. 14, lines 26 – 65); and

23. (4) System performance metrics, (e.g. col. 15, line 41 – col. 16, line 56). It would have been obvious to one skilled in the art at the time the invention was made to combine Engel with the combine system of Raab, Desai and Nugent because it would be more efficient for a system to gather as much information about a system and its ES so if an error or an upgrade is needed it would be more convenient to find the system that require these fixes or modifications.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are none for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

De
October 15, 2003

David E. England
Examiner
Art Unit 2143

BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER